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Chapter 417: The Welfare of Children—a Higher Priority than Family Reunification

Jeanine Lewis

Code Sections Affected

Welfare and Institutions Code § 355.1 (amended).

SB 208 (Polanco); 1999 STAT. Ch. 417 (*Effective* Sept. 16, 1999)

I. INTRODUCTION

The death of two-year-old Lance Helms sparked statewide criticism of the dependency court system and the child welfare laws that determine whether children become wards of the court or are returned to parents.¹ Lance died from massive internal injuries resulting from blows to the stomach, allegedly at the hands of the girlfriend of the boy's father.² Born to a heroin-addicted mother, Lance was in the custody of his aunt with his care supervised by county social workers until his biological father won custody of him.³ Despite warnings from the extended family and social workers about the father's history of suspected child abuse and violence, the county dependency court granted custody to the father after he completed a drug rehabilitation program.⁴ Three years after the girlfriend was convicted and sent to prison for killing Lance, new evidence emerged to inculcate the boy's father.⁵ Consequently, the girlfriend was released from prison, and the father was found guilty of murdering his son.⁶

In 1995, prompted by Lance's tragic death and the resulting public outcry, California State Senator Richard Polanco, a Democratic representative of Los Angeles, advanced new child protective legislation.⁷ In 1999, Mr. Polanco authored

1. See James Rainey, *A Child Dies, and Legal System Is Blamed: Violence; Social Workers and Family Members Say Courts Ignored Numerous Red Flags in Assigning Custody of Boy*, L.A. TIMES, Apr. 28, 1995, at A1 (recounting the story of Lance Helms's tragic life and death and the subsequent public outcry accusing courts of being preoccupied with reuniting families at the expense of protecting children).

2. *Id.*

3. *Id.*

4. *Id.*

5. Al Martinez, *Memories of a Lost Son*, L.A. TIMES, Aug. 21, 1998, at B1.

6. *Id.*

7. See Efrain Hernandez Jr., *Plea Bargain Shields Woman from Trial in Toddler's Death; Courts: Relatives of Lance Helms Express Outrage at Deal with Eve Wingfield. Prosecutors Call Evidence Circumstantial*, L.A. TIMES, Dec. 5, 1995, at 4 (describing statewide criticism of child welfare laws following the death of Lance Helms, and quoting California State Senator Richard G. Polanco, who was in court to support the Helms family,

Chapter 417.⁸ The new law creates a presumption in dependency proceedings involving a parent or guardian who has committed sexual abuse in the past.⁹ Dependency courts are viewed as “the last line of defense” for children like Lance who have already been abused by their parents,¹⁰ as the child dependency court judge decides whether a child will return to her parent or parents.¹¹ Chapter 417 assists judges in overcoming some of the “evidentiary hurdles” to preventing the return of children to the custody of their abusers.¹²

Chapter 417 also expressly grants the dependency court the option of initiating referrals of cases to the juvenile justice system for investigation if the dependency court suspects child abuse.¹³ Although a dependency court judge had this discretionary power prior to Chapter 417, some judges did not consider themselves to have the authority to make such referrals.¹⁴ Chapter 417 makes clear that they indeed have that power.¹⁵

II. LEGAL BACKGROUND

A. *The Problem: Child Abuse in the United States*

Unfortunately, Lance's case is one of many child abuse cases in which the abuser gains custody of the victim.¹⁶ Over one million children were identified as

as saying that “he intends to pursue legislative changes so that ‘kids have a better chance’”). The following California Welfare and Institution Code sections were advanced by Polanco beginning in 1995: sections 300, 361.5, 366.21, and 366.26, allowing judges to limit parental rights in such circumstances as when a parent has a violent felony conviction or a history of drug or alcohol abuse; section 218.5, giving child dependency courts the power to remove a violent parent or other adult from a household; and section 361.5, affording judges the choice to terminate all efforts to keep a family together after a second proven case of abuse. Jonathan Kerr, *California: Legislature Tackles Flood of Child Abuse, Family Reunification Measures*, WEST'S LEGAL NEWS, JUNE 24, 1996, at 1, available in 1996 WL 341225.

8. See SENATE RULES COMMITTEE, SENATE FLOOR ANALYSIS OF SB 208, at 1-2 (May 13, 1999) (reporting that State Senator Polanco authored the bill that later became Chapter 417).

9. CAL. WELF. & INST. CODE § 355.1(a)-(c) (amended by Chapter 417).

10. Editorial, *A Wild Swing for Child Welfare: 'Family Reunification' Movement Needs to Be Tempered*, L.A. TIMES, Sept. 10, 1996, at B6.

11. CAL. WELF. & INST. CODE § 300 (a)-(j) (West 1998 & Supp. 2000).

12. See Meridith Felise Sopher, “*The Best of All Possible Worlds*”: *Balancing Victims' and Defendants' Rights in the Child Sexual Abuse Case*, 63 FORDHAM L. REV. 633, 643 (1994) (explaining that roadblocks abound in the quest to prove child molestation); see also *infra* notes 24-31 and accompanying text (noting a number of “evidentiary hurdles” required to prove child sexual abuse).

13. CAL. WELF. & INST. CODE § 355.1(e) (amended by Chapter 417).

14. SENATE RULES COMMITTEE, SENATE FLOOR ANALYSIS OF SB 208, at 3 (May 13, 1999).

15. *Id.*

16. See, e.g., Kelly Patricia O'Meara, *Nation: Pedophilia in Court. Has Psychiatry Gone Psycho?*, INSIGHT MAG., Apr. 26, 1999, at 16 (reporting that in spite of “overwhelming” evidence that a father had forced his son to perform oral sex on the father, and that the father had threatened physical abuse if the son refused to so perform, a court granted sole custody of the son to the father); Editorial, *Vision*, FRESNO BEE, Apr. 11, 1999, at G2 (telling of the death of four-year-old Dustin, whose parents are suspects in the murder and had prior records of child abuse and neglect).

victims of abuse or neglect in 1996, demonstrating an eighteen percent increase in the numbers of abused children since 1990.¹⁷ Most of the perpetrators of child abuse are the children's parents or other relatives.¹⁸ In 1997, the number of abused and neglected children rose to three million, representing a 114% increase.¹⁹ This increase in child abuse is even more alarming considering the fact that the increase in child population was only fourteen percent during this same period.²⁰

Even more disturbing, perhaps, is the fact that twelve percent of abused or neglected children are sexually abused.²¹ Perhaps due to the horrific nature of child sexual abuse, society has historically denied its existence; however, following extensive media coverage²² over the past twenty-five years, the American public has focused on such abuse.²³ Nonetheless, because child sexual abuse is difficult to prove,²⁴ and because children are often perceived as being subject to adult suggestion, the validity of allegations of child sexual abuse—along with issues of parental rights, family reunification, and child welfare—continue to be controversial.

A number of factors combine to make child sexual abuse difficult to prove.²⁵ For one, child sexual abuse occurs in secret.²⁶ It usually involves a single child abused by a trusted relative, often a parent.²⁷ Physical evidence of such abuse is rare.²⁸ Too often, the courts are left with the child's word against the defendant's.²⁹ Children are further traumatized by having to testify against a trusted adult or parent in the formal, unfamiliar atmosphere of the courtroom.³⁰ These evidentiary

17. U.S. Dep't of Health and Human Services, *Child Maltreatment 1996: Reports from the States to the National Child Abuse and Neglect Data System* (visited Apr. 14, 1999) <<http://www.calib.com/nccanch/pubs/statinfo/stats.htm>> [hereinafter *Child Maltreatment 1996*] (copy on file with the *McGeorge Law Review*).

18. *Id.*

19. Joseph A. Califano Jr., *To Help Children at Risk, Face Their Addicted Parents*, SACRAMENTO BEE, Feb. 4, 1999, at B7, available in 1999 WL 4425990.

20. *Id.*

21. *Child Maltreatment 1996*, *supra* note 17.

22. Indeed, some claim the media exposure has prompted "mass hysteria." *E.g.*, Sopher, *supra* note 12, at 635 n.13 (quoting criminal defense attorney Richard Gardner).

23. *See id.* at 633-34 (suggesting that Americans' concern regarding the subject is demonstrated by the fact that child sexual abuse is addressed almost daily in magazines, newspapers, and television programs, and noting that many celebrities publicly divulge their own accounts of being victimized by child sexual abuse).

24. *See generally* John E. B. Myers *et al.*, *Expert Testimony in Child Sexual Abuse Litigation*, 68 NEB. L. REV. 1 (1989) (describing some of the difficulties in proving child sexual abuse, including the facts that such abuse occurs in secrecy with the victim often being the sole eyewitness, that the courtroom is frightening to a child, and that the child may have to testify against a parent); Sopher, *supra* note 12 (emphasizing the difficulty of investigating child sexual abuse and the difficulty in determining the truth of the allegations).

25. Myers *et al.*, *supra* note 24, at 3-4.

26. *Id.*

27. *Id.*

28. Sopher, *supra* note 12, at 644.

29. Sheila Taub, *Sexual Abuse, Protecting Underage Witnesses*, NAT'L L.J., May 4, 1992, at 28, 28.

30. Myers *et al.*, *supra* note 24, at 1; Taub, *supra* note 29, at 28.

problems are exacerbated by the government's burden to show "clear and convincing" proof of abuse.³¹

In California during the 1980s, "family reunification" was the legislative theme, and legislative efforts focused on reducing the placement of children in long-term foster care and keeping children in the custody of parents who could, with the right support, learn to care properly for their children.³² Currently, the California Legislature, perhaps responding to the increased notoriety of child sexual abuse, has moved away from the primary goal of family reunification, and now is focusing more on the welfare of the child.³³

B. Existing Law

California law defines "sexual abuse" to include, among other acts, rape and other forms of intentional sexual touching,³⁴ and requires law enforcement and Child Protective Services to take action when notified of possible child abuse, sexual or otherwise.³⁵ Competent professional evidence that a minor is the victim of "unreasonable or neglectful acts or omissions" resulting in physical harm to the minor by a person who has care or custody of the minor establishes prima facie evidence that the minor is within the jurisdiction of the juvenile court.³⁶ The prima facie evidence creates a presumption that affects the burden of producing

31. See CAL. WELF. & INST. CODE § 361(c) (West 1998) (requiring that the juvenile court find "clear and convincing" evidence of substantial danger to the child before it can take physical custody of a child from his or her parent or guardian). "Clear and convincing" evidence has been defined as a "highly probable" finding—the evidence is "so clear as to leave no substantial doubt." *Lillian F. v. Super. Ct.*, 160 Cal. App. 3d 314, 320, 206 Cal. Rptr. 603, 160 (1984) (quoting *Sheehan v. Sullivan*, 126 Cal. 189, 193, 58 P. 543 (1899)). In a civil dependency hearing, a "preponderance of evidence" of significant risk to a child must be shown for the court to assume jurisdiction over the child. CAL. WELF. & INST. CODE § 300 (West 1998 & Supp. 2000). In criminal cases, the government's burden of proof is "beyond a reasonable doubt." CAL. PENAL CODE § 1096 (West Supp. 2000).

32. *A Wild Swing for Child Welfare: 'Family Reunification' Movement Needs to be Tempered*, *supra* note 10, at B6.

33. See *id.* (reporting that legislative adjustments have been made to elevate the welfare of children above the goal of keeping the family together in instances of abuse and neglect).

34. CAL. PENAL CODE § 11165.1 (West Supp. 2000); see *id.* (using "sexual abuse" synonymously with "sexual assault" and "sexual exploitation," and defining these terms to include:

rape, statutory rape, . . . rape in concert, . . . incest, . . . sodomy, . . . lewd or lascivious acts upon a child, . . . oral copulation, . . . penetration of a genital or anal opening with a foreign object, . . . child molestation, . . . [and] the intentional touching of the genitals or intimate parts[,] . . . or clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that,[sic] it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose (citations omitted)).

35. *Id.* § 11166(i) (West 1992 & Supp. 2000).

36. CAL. WELF. & INST. CODE § 355.1(a) (amended by Chapter 417); see *id.* § 300 (West 1998 & Supp. 2000) (requiring specific circumstances to occur before a child comes within the jurisdiction of the juvenile court).

evidence.³⁷ Once prima facie evidence is submitted by professionals, the parent, guardian, or other person who had care or custody of the minor must introduce evidence that the minor was not injured by, or did not suffer a “detrimental condition” as a result of acts of, the person charged with the care or custody of the minor.³⁸ The burden of producing defensive evidence is placed on the custodial adult, and the State has no further burden to produce evidence.³⁹ Not only must the custodial adult produce evidence, but that evidence must meet the preponderance-of-evidence standard.⁴⁰

For cases of sexual abuse, the law prior to Chapter 417 required the State to show physical evidence of sexual abuse, as it did with any other “detrimental condition” sustained by a child, and such evidence provided prima facie evidence of the abuse.⁴¹ The law provided for no presumption that a person with a history of committing a sexual offense was a danger to a minor living in the same household.⁴² The custodian of a child suspected to be the victim of sexual abuse was not required to produce evidence that the child was not at risk, except to the extent that such custodian had to refute the evidence of sexual abuse introduced by the State—in other words, the burden was on the State.⁴³ Proof of abuse, neglect, or cruelty by a person with care or custody of a minor was and continues to be admissible in a juvenile court dependency proceeding; however, testimony by a parent, guardian, or other custodian during a dependency proceeding cannot be admitted as evidence in any other action or proceeding.⁴⁴

III. CHAPTER 417

Chapter 417 makes two important changes to California law. First, Chapter 417 provides that a minor may become a dependent of the juvenile court if the minor’s parent or guardian, or any person currently residing with the minor: (1) previously has been convicted of sexual abuse as defined by California law; (2) has been found by a court of another state to have committed an act of sexual abuse under California law; (3) has been found in a prior dependency court proceeding to have committed an act of sexual abuse; or (4) is required to register as a sex offender for

37. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF SB 208, at 2 (June 29, 1999); see CAL. EVID. CODE § 110 (West 1995) (providing that the “[b]urden of producing evidence” means the obligation of a party to introduce evidence sufficient to avoid a ruling against him on the issue”).

38. CAL. WELF. & INST. CODE § 355.1(d) (amended by Chapter 417).

39. *Id.*

40. *Id.* § 355(a) (West 1998).

41. 1987 Cal. Stat. ch. 1485, sec. 35, at 692-93 (enacting CAL. WELF. & INST. CODE § 355.1(a)-(c) (amended by Chapter 417)).

42. *Id.*

43. *Id.*

44. Compare *id.* (providing protection of evidence offered in dependency hearings from other legal actions), with CAL. WELF. & INST. CODE § 355.1(f) (amended by Chapter 417) (continuing these protections).

a felony sexual abuse conviction.⁴⁵ This provision creates the presumption that the child is in danger of abuse if living with a custodial adult who has a history of sexual abuse of the described nature.⁴⁶ The presumption shifts the burden of proof to the custodial adult, who must show by a preponderance of the evidence that the child is not in danger of harm.⁴⁷

Second, Chapter 417 explicitly allows the court to direct Child Protective Services to investigate and report any case that the court believes involves a child who has been abused or neglected.⁴⁸ This provision clarifies a source of confusion regarding the authority of the court to make referrals to the juvenile justice system.⁴⁹

IV. ANALYSIS OF CHAPTER 417

A. *Evidentiary Issues*

Under Chapter 417, a custodial person with a history of sexual abuse who wishes to oppose a court order making a minor a ward of the State has the burden of producing evidence that shows he or she does not present a risk to the minor.⁵⁰ In other words, the State no longer has the difficult task⁵¹ of proving by clear and convincing evidence that a person with a history of sexual abuse is a danger to a minor living in the same household, unless that person produces some evidence to the contrary.

However, the sexual offender, having the burden of producing evidence rather than the burden of proof, need only show *some* evidence.⁵² With this lesser burden, if the person with a history of sexual abuse provides some evidence that the child at issue has not been harmed or is not at risk to be harmed, the State is required to meet its previous burden of proving by clear and convincing evidence that the child was harmed or is at risk of being harmed.⁵³

45. CAL. WELF. & INST. CODE § 355.1(d) (amended by Chapter 417).

46. *Id.*

47. *Id.*

48. *Id.* § 355.1(e) (amended by Chapter 417).

49. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 208, at 6 (May 11, 1999); *see supra* text accompanying note 14 (explaining that some dependency court judges did not believe that they had the power to make these referrals).

50. CAL. WELF. & INST. CODE § 355.1(d) (amended by Chapter 417).

51. *See* ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF SB 208, at 2 (June 29, 1999) (noting the contention of Chapter 417's sponsor that the State's burden to prove danger of abuse of a minor by clear and convincing evidence is an impossible burden to bear).

52. CAL. WELF. & INST. CODE § 355.1(a), (c) (amended by Chapter 417).

53. *Id.* § 355.1(b) (amended by Chapter 417).

B. Recidivism Among Sex Abusers

Statistical data support the notion that a person with a history of sexual abuse is a danger to a minor living in the same household because sexual abusers tend to repeat their offensive conduct.⁵⁴ Two-thirds of the sex offenders in state prisons victimized a child, and figures show a high incidence of recidivism among sex offenders.⁵⁵ Although the events usually go unreported, the typical sex offender victimizes an average of 117 children.⁵⁶ About thirty percent of sex offenders themselves admit to sexually abusing more than one child.⁵⁷ Such findings underscore the rationality of the conclusion that a significant risk is faced by a minor who lives with a person who has committed a serious sexual offense.⁵⁸ By placing upon the proven offender the requirement of producing evidence showing that no risk of harm exists to the involved children, Chapter 417 provides children in these precarious situations with added procedural protections to reduce the likelihood of sexual abuse. The new law closes a loophole that previously had allowed sexually abused children to be returned to the household of their abusers by narrowly applying the presumption of risk to those individuals who are repeat offenders.⁵⁹

C. Analysis of the Arguments in Opposition to Chapter 417

The Juvenile Courts Bar Association and the National Association of Counsel for Children, Los Angeles Affiliate, made four arguments against Chapter 417. First was the argument that a presumption of risk to a minor based on a history of sexual abuse is not as accurate as factual evidence obtained from an actual criminal case

54. See, e.g., Dr. Nancy Faulkner, *Sexual Abuse Statistics* (visited Apr. 14, 2000) <<http://www.prevent-abuse-now.com/stats.htm>> (copy on file with the *McGeorge Law Review*) (providing summary statistics involving child sexual offenders, and reporting that the average sexual offender molests an average of 117 children); U.S. Dep't of Justice, *Child Abuse and Offender Statistics* (visited Apr. 14, 2000) <<http://www.prevent-abuse-now.com/stats2.htm>> [hereinafter CHILD ABUSE STATISTICS] (copy on file with the *McGeorge Law Review*) (releasing statistics showing that 19% of convicted sexual offenders were repeat offenders); see also Prevent Child Abuse America, *Child Abuse and Neglect Statistics* (visited Aug. 5, 1999) <<http://www.childabuse.org/facts97.html>> (copy on file with the *McGeorge Law Review*) (reporting that since 1985, the rate of fatalities resulting from child abuse has increased by 34%, and noting that young children remain at high risk for loss of life as more than three children die each day as a result of child abuse or neglect).

55. CHILD ABUSE STATISTICS, *supra* note 54.

56. Faulkner, *supra* note 54.

57. CHILD ABUSE STATISTICS, *supra* note 54.

58. See ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF SB 208, at 4 (June 29, 1999) (concluding that "any reasonable person would agree that there is a significant risk to the minor that the court must not be allowed to ignore").

59. See *supra* note 16 and accompanying text (giving examples of cases in which children were returned to their abusers).

file involving sexual abuse.⁶⁰ A second argument was that a presumption of risk to a minor places the responsibility of risk assessment on the juvenile court and excludes the expertise of social workers who can determine the risk to the minor.⁶¹ Third, the presumption arguably shifts the responsibility of risk assessment to the minor's counsel.⁶² However, in this third argument, the opponents seem to have confused the burden of producing evidence with the burden of proof, and did not offer an explanation to reconcile the contradiction between argument two and argument three.⁶³ Fourth, opponents of Chapter 417 argued that the new law does not sufficiently identify persons who actually pose a substantial risk to the minor.⁶⁴

Some of these arguments perhaps can be resolved by applying the distinction between "burden of proof" and "burden of producing evidence."⁶⁵ Under Chapter 417, the fact that a person who has committed a sexual crime is living in the household of a minor does not trigger the juvenile court's jurisdiction, but such circumstances do trigger a presumption of danger to a child who is already before the dependency court.⁶⁶ For example, the new law's greatest potential to protect minors occurs under circumstances wherein the sexual offender is trying to gain or keep custody of a minor who is the subject of a dependency proceeding.⁶⁷ The sexual offender does not have to *prove* that she poses no danger to the minor, but rather must *produce some evidence* that the minor was not sexually abused and is not at risk for such abuse.⁶⁸ She can rebut the presumption simply by showing some evidence to the contrary.⁶⁹ If she indeed rebuts the presumption, the State again has the burden to provide clear and convincing evidence of abuse or neglect, or risk of abuse or neglect, before the court can deem the minor a dependent of the court.⁷⁰ The only instance in which the expertise of a social worker is not needed occurs when the offender has a recent conviction of a serious sexual offense involving a child and was unable to produce some evidence tending to show that she poses no risk to the minor at issue.⁷¹

60. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF SB 208, at 5 (June 29, 1999). A criminal case file is a court's complete and official report of a criminal case. BLACK'S LAW DICTIONARY 642 (7th ed. 1999).

61. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF SB 203, at 5 (June 29, 1999).

62. *Id.*

63. *Id.*

64. *Id.*

65. See CAL. EVID. CODE § 110 (West 1995) (defining "burden of producing evidence" as "the obligation of a party to introduce evidence sufficient to avoid a ruling against him on the issue").

66. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 208, at 3 (July 13, 1999).

67. *Id.*

68. *Id.*

69. CAL. WELF. & INST. CODE § 355(a) (West 1998).

70. *Id.* § 355.1(d) (amended by Chapter 417).

71. *Id.*

Some opponents argue that Chapter 417 does not clearly identify those offenders who would pose no risk to a minor.⁷² They are concerned that sex crimes such as “streaking” and consensual sex between two minors would establish prima facie evidence of a risk of sexual abuse to a minor.⁷³ However, the presumption of Chapter 417 becomes effective only when the offense is a felony⁷⁴ or involves “a lewd or lascivious act” between a minor and an adult “at least ten years older than the minor.”⁷⁵ Therefore, this argument is without merit.

D. Dependency Court Judges and Their Clear Authority to Make Referrals to Child Protective Agencies

Prior to the enactment of Chapter 417, the dependency court could use its wide discretionary powers to make referrals to the juvenile justice system for investigation.⁷⁶ However, the County of Los Angeles, the sponsor of Chapter 417, noted that some judges felt that they did not have the authority to make such referrals.⁷⁷ The new law makes clear that the court has explicit authority to direct Child Protective Services to follow the mandatory child abuse reporting requirements if the court believes a child has been abused or neglected.⁷⁸ Accordingly, the express authority granted to dependency courts by Chapter 417 increases the protection of children from sexual abuse by increasing the involvement of existing state agencies that investigate child abuse and protect victims.⁷⁹

V. CONCLUSION

An increasing prevalence in the number of cases like that of Lance Helms⁸⁰ calls for laws that provide greater protection for children from abuse. Chapter 417 provides children with greater protection from sexual abuse by requiring that sexual offenders who live in a minor’s home produce evidence showing that their domestic presence will not put the child at risk.⁸¹ Chapter 417 promotes the involvement of

72. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF SB 208, at 6 (June 29, 1999).

73. *Id.*

74. CAL. WELF. & INST. CODE § 355.1(d) (enacted by Chapter 417).

75. See CAL. PENAL CODE § 288(c) (West 1999) (outlawing a “lewd or lascivious” act upon a child under the age of 14 years by an adult who is at least 10 years older than the child).

76. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 208, at 6 (May 11, 1999).

77. *Id.*

78. *Id.*; see also CAL. PENAL CODE § 11166(i) (West 1992 & Supp. 2000) (providing mandatory reporting requirements for social services).

79. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF SB 208, at 1 (June 29, 1999).

80. See *supra* notes 1-6 and accompanying text (summarizing the plight of the young Lance Helms).

81. *Supra* text accompanying note 53.

existing state agencies in exposing child abuse,⁸² and eliminates the loophole in the law that had allowed children to be returned to the custody of their abusers.⁸³ Chapter 417's passage represents a legislative decision to place a child's right to be free from abuse in the home above the desire to keep families together when those family situations foster an abusive atmosphere.⁸⁴

82. See *supra* notes 76-79 and accompanying text (summarizing the new law's provisions that encourage the court's referral to State child protection agencies).

83. See *supra* notes 54-59 and accompanying text (discussing recidivism among sexual abusers and how Chapter 417 closes the loophole that allows revictimization).

84. Cf. *supra* notes 32-33 and accompanying text (noting the past preference of family reunification in the juvenile courts).